

Message Text

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ACTION IO-13

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TAGS: IAEA, PARM, TECH
SUBJECT: TRANSMITTAL OF MODEL AGREEMENT ON TA SAFEGUARDS

REFS: A) IAEA VIENNA 4235; B) IEA VIENNA 9993

1. MISSION HAS RECEIVED FROM MEMBERS OF SECRETARIAT, ON PRIVATE BASIS, A DRAFT MODEL AGREEMENT FOR QUOTE THE APPLICATION OF SAFEGUARDS IN RELATION TO TECHNICAL ASSISTANCE. END QUOTE. IN ADDITION, THE SECRETARIAT IS DRAFTING A SECOND TA SAFEGUARDS DOCUMENT WHICH WILL SET FORTH THE RATIONALE FOR THE SECRETARIAT'S PROPOSED APPROACH TO TA SAFEGUARDS. COPIES OF THE MODEL AGREEMENT HAVE BEEN POUCHED DECEMBER 10 TO STATE (ADLER). ACDA (VAN DOREN) AND ERDA (AMMONS). WE WILL POUCH THE RATIONALE PAPER AS SOON AS DRAFTING PROCESS COMPLETED.

2. THESE TWO DOCUMENTS ARE AN OUTGROWTH OF THE TA SAFEGUARDS POLICY DEVELOPMENT PROCESS WHICH BEGAN WITH LIMITED OFFICIAL USE

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A PAPER BY DAVID FISCHER, TRANSMITTED TO WASHINGTON LAST MAY (SEE REF A). THE MAY FISHER PAPER NO LONGER HAS ANY STATUS, HAVING BEEN SUPERSEDED BY THE TWO DOCUMENTS DESCRIBED HEREIN.

3. MISSION HAS LEARNED THAT A COPY OF THE MODEL

AGREEMENT HAS BEEN GIVEN TO PAKISTANI RESREP. PAKISTAN HAS APPLIED FOR TA FELLOWSHIP IN REPROCESSING TECHNOLOGY, AND THE MODEL AGREEMENT WAS PROVIDED TO SERVE AS A BASIS FOR A NEGOTIATED TA SAFEGUARDS AGREEMENT. COPIES OF THE MODEL AGREEMENT MAY ALSO HAVE BEEN GIVEN TO REPRESENTATIVES OF EGYPT, INDIA AND ARGENTINA, EACH OF WHOM HAS APPLIED FOR TA OF A TYPE WHICH IN THE SECRETARIAT'S JUDGMENT WARRANTS SAFEGUARDS.

4. MISSION HAS STUDIED MODEL AGREEMENT AND HAS INFORMALLY MADE FOLLOWING COMMENTS TO SECRETARIAT:

A. SECOND PREAMBULAR PARAGRAPH READS QUOTE WHEREAS THE BG HAS DETERMINED THAT SAFEGUARDS SHALL APPLY IN CONNECTION TRANSFER OF TECHNOLOGICAL INFORMATION IN CERTAIN PARTS OF THE FUEL CYCLE END QUOTE. MISSION BELIEVES QUOTE SHALL APPLY END QUOTE SHOULD BE CHANGED TO QUOTE MAY BE APPLIED END QUOTE. BG APPROVAL OF A PARTICULAR TRILATERAL AGREEMENT, E.G. IAEA/BRAZIL/FRG, IN NO WAY REQUIRES THAT ALL FUTURE SAFEGUARDS AGREEMENTS CONTAIN PROVISIONS ADDRESSING TRANSFER OF TECHNOLOGICAL INFORMATION. SECRETARIAT AGREES SOME SOFTENING OF THE ASSERTION IN THIS PARAGRAPH IS WARRANTED; DRAFTSMAN (REINHARD RAINER) IS CONSIDERING SOFTENING THE WORD QUOTE DETERMINED END QUOTE.

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B. ARTICLE 3.2 REPLICATION PROVISION APPLIES QUOTE TWENTY YEARS AFTER TECHNICAL ASSISTANCE HAS BEEN GRANTED END QUOTE. WE BELIEVE QUOTE GRANTED END QUOTE SHOULD BE REPLACED BY QUOTE COMPLETED END QUOTE, BOTH BECAUSE COMPLETION IS A MORE PRECISELY IDENTIFIABLE MILESTONE, AND BECAUSE IT IS LATER. SECRETARIAT (RAINER) AGREES AND PLANS TO MAKE THIS CHANGE IN SUBSEQUENT DRAFT. IN THE SAME PARAGRAPH, WASHINGTON SHOULD NOTE THAT USE OF THE TERM QUOTE AREA OF THE FUEL CYCLE END QUOTE DOES NOT COMPLETELY COVER ALL MILITARY PURPOSES POSSIBILITIES. FOR EXAMPLE, TA COULD BE GIVEN IN METALLURGY USING NUCLEAR TECHNIQUES WHICH COULD HAVE MILITARY APPLICATION. MISSION BELIEVES, HOWEVER, THAT TA SAFEGUARDS APPLICATION IN FUEL CYCLE WOULD BE SUFFICIENT, AND ATTEMPT TO EXPAND INTO OTHER AREAS OF POSSIBLE MILITARY SIGNIFICANCE COULD PROVE DIFFICULT. SECRETARIAT AGREES.

C. RE BRACKETED LANGUAGE IN ARTICLE 15, PARA 2,
SECRETARIAT HAD NOT YET DECIDED BETWEEN THE TWO BRACKETED
ALTERNATIVES, MISSION SUGGESTED LEAVING BOTH IN MODEL
AGREEMENT, APPLYING FIRST ALTERNATIVE IN CASES WHERE A
FACILITY EXISTS AGAINST WHICH TO APPLY SUBSIDIARY
ARRANGEMENTS, OR APPLYING SECOND ALTERNATIVE IN CASES
WHERE A FACILITY DOES NOT EXIST AGAINST WHICH TO
APPLY SUBSIDIARY ARRANGEMENTS. SECRETARIAT (RAINER)
AGREES, AND WILL ENDEAVOR TO INCORPORATE THIS CONCEPT
INTO SUBSEQUENT DRAFT.

5. THE SECRETARIAT PROPOSED COURSE OF ACTION RE TA
SAFEGUARDS IS STILL EVOLVING. MISSION IN DAILY CONTACT
WITH RESPONSIBLE SECRETARIAT OFFICIALS; WILL REPORT AS
SOON AS SECRETARIAT HAS CONCRETE PLAN, AND AT THAT TIME
WILL COMMUNICATE MISSION'S REACTIONS. STONE

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